

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.12985 OF 2007

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DATED: 21-06-2007

BETWEEN

G. Ramesh, S/o. Sailu,
Occ: Owner of Vehicle,
R/o. H.No.1-58, Narepalli,
Ibrahimpattanam, R.R. District.

...PETITIONER

AND

The State of Andhra Pradesh,
Rep. by its Commissioner of
Prohibition and Excise, Station
Road, Hyderabad and others.

...RESPONDENTS

ORDER:

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Petitioner submits that he is the owner of the lorry bearing No. AP 29 T 4671, which has been seized in Cr.No.343 of 2006-07 dated 21.09.2006 of the Prohibition and Excise Station, Jaggaiahpetta, registered against three persons namely, Padmavathi Satish, Erri Bala Krishna and Hanumantha Narendra Reddy alleging that the vehicle was found transporting 200 litres of ID liquor. Apart from registering a criminal case, the Deputy Commissioner of Prohibition and Excise has also launched the confiscation proceedings, in which the petitioner made representation dated 26.02.2007 for interim custody of the vehicle.

2. He further submits that pursuant to the said representation the confiscating authority/Deputy Commissioner of Prohibition and Excise issued a memo in Rc.No.792/2006/B2 dated 28.02.2007 for interim custody

of the vehicle in favour of petitioner pending finalization subject to the submission of following documents:

1. A Bank guarantee/F.D.R. for Rs.1,25,000/- in favour of the Deputy Commissioner of Prohibition and Excise for a period of 5 years for full value of the vehicle as assessed by M.V.I. concerned.
2. An affidavit on Non Judicial Stamp paper worth Rs.10/- stating that the vehicle was not involved in any excise crime earlier.
3. An undertaking on Non Judicial Stamp paper worth Rs.100/- to the effect that the vehicle will not be sold out, alienated or part with in any manner and it will be produced before the authority in the present condition as and when called for etc., in usual proforma.

Apart from three conditions the owner of the lorry should produce the vehicle at Jaggaiahpet, Prohibition and Excise Station once in a month or as directed by the Departmental officials whenever required. The petitioner aggrieved by the first condition alone filed this writ petition.

3. Petitioner further submits that the total value of the vehicle itself is Rs.1,25,000/- and the vehicle was seized as long back as on 21.09.2006 and its value has diminished. He further submits that as he was directed to produce the vehicle as and when required, it is just and proper to grant interim custody by imposing reasonable conditions.

4. I am of the opinion that if the vehicle is not released, it's value would diminish, as it would be exposed to sun, air etc. Having regard to the facts and circumstances of the case, the requirement imposed by way of condition No.1 of the impugned memo can be relaxed insofar as the quantum of the amount is concerned. Accordingly, the amount of bank guarantee/F.D.R. to be furnished is reduced from Rs.1,25,000/- to Rs.50,000/-. The petitioner shall comply with all the conditions imposed in the impugned memo but the bank guarantee to be furnished shall be Rs.50,000/- only. Apart from the bank guarantee/F.D.R. the petitioner shall execute a personal bond for a sum of Rs.75,000/- giving an undertaking that in the event of the final confiscation orders being passed, he will return the vehicle in its same condition i.e. it's value being Rs.1,25,000/- or forego the

value of the said vehicle. However, if the confiscation orders have already been passed, the question of implementing the modified memo does not arise.

The writ petition is accordingly disposed of. There shall be no order as to costs.

V. ESWARAIAH, J

June 21, 2007
DSK